

Notice of Allowability

Application No.

10/530,795

Examiner

JAE W. LEE

Applicant(s)

SINCLAIR ET AL.

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/30/2010.
2. ☒ The allowed claim(s) is/are 1,5,7-26,30-33 and 35-42.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>03/10/2011</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>12/30/2010</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

Election/Restrictions

It is noted by the Examiner that upon further consideration, all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirements as set forth in the Office actions mailed on 07/30/2007, 05/13/2010 and 10/22/2010 are hereby withdrawn**. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given in a telephone interview with David Brook on 03/10/2011. Claims 1, 5, 7-26, 30-33 and 35-42 are allowed.

Please amend the claims as they appear below:

Claims 27 and 29. Canceled.

Claims 30, 31 and 33. Replace "claim 27" with "claim 1".

Claim 41. Insert a period at the end of this claim.

REASONS FOR ALLOWANCE

The following is an Examiner's statement of reasons for allowance. While Padilla et al. (Nanohedra: Using symmetry to design self assembling protein cages, layers, crystals, and filaments, PNAS, 2001, Vol. 98, No. 5, pg. 2217–2221, see IDS) teach a protein lattice comprising a tetrahedral protein cage with a repeating unit in three-dimension as shown in Figure 2 a-c on pg. 2219, wherein said repeating unit comprises the 49-kDa fusion protein made up of bromoperoxidase and M1 matrix protein of influenza virus connected by a nine-residue helical linker (see under "A Designed Cage" on pg. 2217), which assembles into an assembly of 12 fusion proteins, which forms a tetrahedral protein cage, the protein lattice taught by Padilla et al. does NOT have "at least three rotational symmetry axes". As such, the Examiner has found no teaching or suggestion in the prior art directed to a protein lattice having a regular structure with a repeating unit repeating in three dimensions, the repeating unit comprising protein protomers, wherein each protein protomer comprises at least a first monomer and a second monomer genetically fused together or chemically fused together by a covalent linkage, the monomers each being a monomer of an oligomer assembly into which the monomers are assembled for assembly of the protomers into the lattice, and wherein

Art Unit: 1656

said first monomer is a monomer of a first oligomer assembly which has at least three rotational symmetry axes; and wherein said second monomer is a monomer of a second oligomer assembly, said second oligomer assembly having a rotational symmetry axis of the same order as one of the at least three rotational symmetry axes of the first oligomer assembly and being aligned with the one of the at least three rotational symmetry axes of the first oligomer assembly when said protomers self-assemble into the lattice. Furthermore, given the teachings and representative species in the specification, one skilled in the art could construct various lattices. Therefore, the claimed invention is novel and unobvious over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jae W. Lee whose telephone number is 571-272-9949. The examiner can normally be reached between 9:00 to 5:30 on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath Rao can be reached on 571-272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

Art Unit: 1656

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAE W LEE/
Examiner, Art Unit 1656

/SUZANNE M. NOAKES/
Primary Examiner, Art Unit 1656